

REMARKS

This paper is responsive to an Office Action mailed February 9, 2007. Prior to this response, claims 1-26 were pending. After amending claims 1, 6-7, 12, 18, 20, 23, and 25-26, and adding claims 27-30, claims 1-30 remain pending.

The Office Action states that claims 1-25 have been rejected under 35 U.S.C. 103(a) as allegedly unpatentable with respect to Gudjonsson et al. ("Gudjonsson"; US 6,564,261) in view of Takats (US 2002/0042848). With respect to claims 1, 12, and 25, the Office Action acknowledges that Gudjonsson fails to disclose a server terminal with a user interface and processor, but states that Takats discloses such a feature, and that it would have been obvious to incorporate the teachings of Takats into Gudjonsson "in order to optimize the provision of services by service objects in a network management system." This rejection is traversed as follows.

An invention is unpatentable if the differences between it and the prior art would have been obvious at the time of the invention. As stated in MPEP § 2143, there are three requirements to establish a *prima facie* case of obviousness.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must both be found in

the prior art and not based on applicant's disclosure. *In re Vaeck* 947 F.2d 488, 20 USPQ2d, 1438 (Fed. Cir. 1991).

At col. 7, ln. 28-31, Gudjonsson defines a profile as a contact list that defines a route for each user in the list. At col. 8, ln. 18-34, Gudjonsson discloses that a user 7 can connect to services within a cluster through a client 11, such as a PC, mobile phone, or PDA. The combination of the cluster 1, users 7, and clients 11 forms a virtual private network. Connections can also be made between services or users in different clusters (Fig. 1). At col. 25, ln. 64 through col. 26, ln. 29, an example is disclosed of a call from a GSM phone to a PC through a voice gateway and a device handler. A second example discloses a call from a phone to a phone.

In paragraph [0042] Takats discloses servers SV1 and SV2, which have transmitting and receiving means (e.g., LAN and WAN interface cards), memory means, and control means (e.g., a processor). Paragraph [0041] discloses that server SV1 has a user interface.

In contrast, Applicant's amended claims 1, 12, and 25 recite an ad hoc network backbone. Takats discloses his network to be a telecommunications network [0039], which is understood to be a classic example of a type of access network. Likewise, Gudjonsson is primarily concerned with telecommunication networks (col. 9, ln. 7-21) and LANs (col. 14, ln. 59-64). Neither Takats nor Gudjonsson disclose ad hoc or peer-to-peer networks. Further, neither reference discloses examples of any type of ad hoc network, such as Bluetooth or UWB. In fact, none of the above-mentioned terms are mentioned in the two prior art references. As is well understood by those with skill in the art, ad hoc networks are characterized by temporary relationships between nodes. The

relationships between servers in the Gudjonsson and Takats disclosures appear to be permanent in nature, as is consistent with access networks and LANs.

Claims 1, 12, and 25 also recite user interface communications connected to an ad hoc network backbone, and a processor that supports inter-cluster communications routed on the ad hoc network backbone. Takats is silent on the subject of network backbones. Gudjonsson does disclose communications between different clusters (col. 8, ln. 28-29). However, Gudjonsson does not disclose the establishment of a network backbone between clusters. More important, even if Gudjonsson's cluster connections could be considered to be backbone, Gudjonsson still fails to disclose an *ad hoc* network backbone, as recited in the claimed invention. As would be appreciated by one with skill in the art, the establishment of ad hoc network connections is considerably more complex than establishing fixed connections between servers. Alternately stated, ad hoc connections are established in accordance with their own unique set of protocols (e.g., IEEE 802.11n and 802.15).

The obviousness rejection is based upon the assumption that the combination of the Gudjonsson and Takats disclosures all the elements of the base claims 1, 12, and 25. However, as explained above, neither reference discloses the elements of an ad hoc network, user interface communications connected to an ad hoc network backbone, or a processor that routes inter-cluster communications on an ad hoc network backbone. With respect to the third *prima facie* requirement, even if it would have been obvious to combine the Gudjonsson and Takats references, this combination does not explicitly disclose the above-mentioned limitations

recited in claims 1, 12, and 25. Claims 2-11, dependent from claim 1, and claims 13-24, dependent from claim 12, enjoy the same distinctions.

With respect to the first *prima facie* requirement, even if it would have been obvious optimize the provision of services by service objects in a network management system, this analysis does not explain how an expert in the art could have modified the Gudjonsson reference in such a way as to describe the claimed invention. As explained above in response to the third *prima facie* requirement, even with Takat's server user interface, the combination of Gudjonsson and Takats still fails to disclose all of the claimed invention limitations. Nothing in the Office Action explains how a person of skill could modify Gudjonsson fixed-connection system to enable communications along an ad hoc network backbone. Rather, to meet the first *prima facie* requirement, there must be an explicit teaching that shows an expert how the Gudjonsson reference can be modified to yield the claimed invention. Such a *prima facie* case has not been made, simply because all the Applicant's claim limitations cannot be found in both the Gudjonsson and Takats references.

Alternately, if the Examiner is relying upon the knowledge of a person with skill in the art to supply motivation lacking the Gudjonsson and Takats references, then additional evidence must be provided. Notable, when the source or motivation is not from the prior art references, "the evidence" of motive will likely consist of an explanation or a well-known principle or problem-solving strategy to be applied". *DyStar*, 464 F.3d at 1366, 80 USPQ2d at 1649. The Examiner has not supplied the source for inspiration that an expert could use to modify Gudjonsson

into a system that promotes inter-cluster communications along an ad hoc network backbone.

Considered from the perspective of the second *prima facie* requirement, even if an expert were given the Gudjonsson and Takats references as a foundation, no evidence has been provided to show that there is a reasonable expectation of success in the claimed invention.

In summary, the Applicant respectfully submits that a *prima facie* case of obvious has not been supported, and the Applicant requests that the rejection of claims 1-25 be removed.

The Office Action states that claim 26 has been rejected under 35 U.S.C. 103(a) as allegedly unpatentable with respect to Gudjonsson in view of Chrabaszc (US 6,134,673). The Office Action states that Chrabaszc discloses the use of a backup server terminal. The Office Actions states that it would have been obvious to incorporate the teachings of Chrabaszc into Gudjonsson “in order to provide fault tolerance execution of application programs in a server network.” This rejection is traversed as follows.

As noted above in response to the rejection of claims 1-25, at col. 8, ln. 18-34, Gudjonsson discloses the combination of the cluster 1, users 7, and clients 11 to form a virtual private network. Connections can also be made between services or users in different clusters (Fig. 1). At col. 14, ln. 30-40, Gudjonsson states that when a server breaks down, another server must automatically take over its role.

In his Abstract and at col. 3, ln. 52 through col. 4, ln. 11, Chrabaszc discloses a backup server attribute that identifies which server is a backup server for executing a program, if the primary server

experiences a failure. Like the Gudjonsson and Takats networks, Chrabaszcz discloses a server network where the connections between nodes are predetermined and fixed. That is, Chrabaszcz does not disclose a server network of ad hoc connections.

Neither Gudjonsson nor Chrabaszcz disclose any procedures for establishing either a primary or backup server to support inter-cluster communications on an *ad hoc* network backbone. As noted above, the connection of servers that communicate between clusters in an ad hoc network is much more complex than it in multiple access networks where the server connections are more fixed. The two prior art references do not teach ad hoc communications, or the creation of an ad hoc network backbone.

The obviousness rejection is based upon the assumption that the combination of the Gudjonsson and Chrabaszcz discloses all the elements of the base claim 26. However, as explained above, the combination of Gudjonsson and Chrabaszcz does not disclose the limitations of a server (primary or backup) that establishes a route between clusters on an ad hoc network backbone. With respect to the third *prima facie* requirement, even if Gudjonsson and Chrabaszcz are combined, the combination still does not explicitly disclose every limitation recited in claim 26.

With respect to the first *prima facie* requirement, even if it would have been obvious to provide fault tolerance in a server network, this statement does not explain how an expert in the art could have modified the Gudjonsson reference in such a way as to describe the claimed invention. As explained above in response to the third *prima facie* requirement, the combination of Gudjonsson and Chrabaszcz still

fails to disclose all of the claimed invention limitations. Nothing in the Office Action explains how a person of skill would modify Gudjonsson's fixed connections between clusters to an ad hoc network backbone. As noted above, to meet the first *prima facie* requirement, there must be an explicit teaching that shows an expert how the Gudjonsson reference can be modified to yield the claimed invention. Such a *prima facie* case has not been made, because all the Applicant's claim limitations cannot be found in the Gudjonsson and Chrabaszc references.

Alternately, if the Examiner is relying upon the knowledge of a person with skill in the art to supply motivation lacking the Gudjonsson and Chrabaszc references, then additional evidence must be provided. The Office Action has not supplied the source for inspiration that an expert could use to modify Gudjonsson system into an ad hoc network with a network backbone.

Considered from the perspective of the second *prima facie* requirement, even if an expert were given the Gudjonsson and Chrabaszc references as a foundation, no evidence has been provided to show that there is a reasonable expectation of success in the claimed invention.

In summary, the Applicant respectfully submits that a *prima facie* case of obvious has not been supported, and the Applicant requests that the rejection of claim 26 be removed.

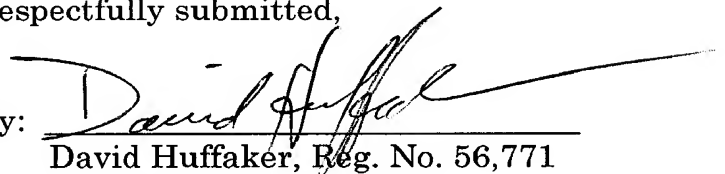
It is believed that the application is in condition for allowance and reconsideration is earnestly solicited.

Applicant believes no additional fees other than those listed on the transmittal for extra claims are due for this paper, however, if it found that additional fees are due, please charge Deposit Account No. 17-0026.

Respectfully submitted,

Date: April 12, 2007

By:

A handwritten signature in black ink, appearing to read "David Huffaker", written over a horizontal line.

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